



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,511	04/01/2004	Huw Edward Oliver	300203615-4	1299
22879 7590 03/25/2010 HEWLETT-PACKARD COMPANY Intellectual Property Administration 3404 E. Harmony Road Mail Stop 35 FORT COLLINS, CO 80528			EXAMINER CHERY, DADY	
			ART UNIT 2461	PAPER NUMBER
			NOTIFICATION DATE 03/25/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
ipa.mail@hp.com
laura.m.clark@hp.com

Office Action Summary

Application No.

10/815,511

Applicant(s)

OLIVER ET AL.

Examiner

DADY CHERY

Art Unit

2461

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 11-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-4 and 11-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This communication is responsive to the amendment filed on January 7th 2010.

No Claims have been amended.

Claims 5-10, 19, 20 and 25 -26 have cancelled.

No claims have been added.

Claims 1-4, 11-18 and 21-24 are now pending.

Response to Arguments

1. Applicant's arguments filed on January 7th 2010 have been fully considered but they are not persuasive. In response to the applicant's argument that the Office Action is alleging that because the reference fails to disclose an element of the claim, that is anticipates a positive limitation of claim 1. The examiner respectfully disagrees with the applicant assertion because this particular limitation of claim " said first computer entity is not being used by a service application at a higher level layer than said peer to peer protocol" is negative limitation because the claim explicitly said not being used by a service application at a higher level layer that said peer. The prior art in record could be overcome if the claim has amended as "and is invoked only when said resource of said first computer entity is not being used."
2. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., restricting access to resources based upon whether the resource is being used by a higher layer) are not recited in the rejected claim(s). Although the claims are

interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The limitations restricting access to resources based upon whether the resource is being used by a higher layer are not being claimed as the applicant argued.

For at least the reasons provided above, the applicant arguments regarding independent claim 1 are not persuasive. The applicant argues that independent claims 11, 16 and 17 are patentable for similar reasons and are also not persuasive. The applicant further argues that since dependent claims 11-15, 16-18 and 22-24 depend on the argued independent claim; they are patentable at least by virtue of their dependencies. Since the applicant's arguments regarding independent claim 1 are not persuasive, the applicant's arguments regarding dependent claims 11-15, 16-18 and 22-24 are also not persuasive.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1- 3 and 11- 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Yeager et al. (US Application 2003/0055894, hereinafter Yeager).

Regarding claims 1 and 16, Yeager discloses a method performed by a first computer entity (**Figs. 1A and 1B**):

operating a peer to peer protocol for enabling said first computer (**104A**) entity to utilize a resource of a second computer (**104B**) entity of in a peer to peer network (**106**), and for enabling said second computer entity to utilize a resource of said first computer entity in said peer to peer network (**Page 16, [0212], page 17, [0214], which recites a peer includes a peer-to-peer application layer 150 that enables resources sharing between peer entities**); and operating a process for managing said second computer entity (**Page 15, [0203], which recites peer monitoring 128 operates process for managing functions of the peer**), wherein said process utilizes said resource of said first computer entity (**Page 17, [0219] and page 21, [0255], which recites a peer utilizes resources of other peers**) and is invoked when said resource of said first computer entity is not being used a service application at a higher layer than said peer to peer protocol (**Page 17, [0219] and page 21, [0255], which recites peers invoke network resources services to be used by the peer groups. Yeager does not teach that these peer services are being used by any other higher layer**).

Regarding claim 2, Yeager discloses said process comprises: determining a policy by which said first computer entity will interact with said second computer entity (**Page 19, [0238]**).

Regarding claim 3, Yeager discloses said process comprises: adopting a policy towards said second computer entity wherein said policy is selected from a set of pre-

determined polices for determining a relationship between said first computer entity and said computer entity (**Page 19, [0238]**).

Regarding claim 11, Yeager discloses a first computer (**Fig. 11,200**) entity comprising:

a peer to peer networking component (**126**) for allowing said first computer entity to engage other computer entities on a peer to peer basis(**Page 15, [0203], which recites pipes that provide communication channels among peers**); and a network management component (**128**) for enabling-a said first computer entity to participate in management of a peer to peer network (**Page 15, [0203], which recites peer monitoring 128 implement peer management functions**), wherein said network management component is configured to operate operates a process for managing a second computer entity in said peer to peer network (**Page 15, [0203], which recites peer monitoring 128 operates process for managing functions of the peer**), and wherein said ,process utilizes a resource of said first computer when said resource is not being used by a service application at a higher level layer than said peer to peer protocol(**Page 17, [0219] and page 21, [0255], which recites peers invoke network resources services that not being used by any other layer as discloses by the instant application**).

Regarding claim 12, Yeager discloses said network management component is activated whenever said peer to peer networking component is operational (**Page 15, [0203]**).

Regarding claim 13, Yeager discloses said network management component comprises a program data that controls resources of said peer to peer network to perform a network management service (**Page 4, [0052] – [0054], Page 17, [0219] and page 21, [0255]**).

Regarding claim 14, Yeager discloses said network management component applies policy for determining a mode of operation of said first computer entity in relation to said second computer entity (**page 19, [0239]**).

Regarding claim 15, Yeager discloses said network management component operates to: communicate with a plurality of other computer entities of said network for sending and receiving policy data concerning an .operational policy towards said second computer entity and determine, from a consideration of policy data received from said other computer entities, a global policy to be adopted by each computer entity in said network, towards said computer entity (**Page 19, [0238] – [0240]**).

Regarding claim 17, Yeager discloses a method (**Figs. 1A and 1B**) performed by a first computer entity (**Fig. 11, 200**) having:

a set of computing resources(**120**); and higher level service (**140**) provided a service application(**Page 15, [0199], which recites a core layer 120 and service layer 140**), said method comprising:

operating a peer to peer protocol for enabling said first computer entity to a resource of a second computer in a peer to peer network (**Page 16, [0212], page 17, [0214], which recites a peer includes a peer-to-peer application layer 150 that enables**

resources sharing between peer entities), and for enabling said second computer entity to utilize resource of said computer entity(**Page 15, [0203], which recites peer monitoring 128 operates process for managing functions of the peer**), and operating a process for managing said second computer entity wherein said process utilizes said set of computing resources(**Page 17, [0219] and page 21, [0255], which recites a peer utilizes resources of other peers**) , and is invoked when said set of computing resources is not being used by said service application at a higher level layer than said peer to peer protocol(**Page 17, [0219] and page 21, [0255], which recites peers invoke network resources services that not being used by any other layer as discloses by the instant application**).

Regarding claim 18, Yeager discloses the computer entity automatically operates said process for managing at least one other computer entity, in response to receipt of a service request from at least one of said plurality of computer entities, not including said computer entity itself (**Page 24, [0295]- [0297]**).

Regarding claim 19, Yeager discloses a method (**Figs. 1A and 1B**) performed by a first computer entity (**104A**) said method comprising:

operating a peer to peer protocol for enabling said first computer entity (**104A**) to utilize a resource of a second computer entity (**104B**) in a peer-to-peer network(**106**), and for enabling said second computer entity to utilize a resource of said first computer entity in said peer to peer network (**Page 16, [0212], page 17, [0214], which recites a**

peer includes a peer-to-peer application layer 150 that enables resources sharing between peer entities);

operating a process for managing said second computer entity (**Page 15, [0203], which recites peer monitoring 128 operates process for managing functions of the peer**), in response to receipt of a service request from a third computer entity in said peer to peer network (**Page 24, [0295] – [0298], which recites peer devices or nodes collaborate to manage each other in response to a request as disclosed by the instant application**).

Regarding claim 20, Yeager discloses a first computer entity (**Fig. 11,200**) comprising:

a peer to peer networking component (**126**) for allowing said first computer entity to engage other computer entities on a peer to peer basis (**Page 15, [0203], which recites pipes that provide communication channels among peers**);, a network management component (**128**) for enabling a said first computer entity to participate in management of a peer to peer network (**Page 15, [0203], which recites peer monitoring 128 implement peer management functions**)

wherein said network management component operates a process for managing a second computer entity in said peer to peer network (**Page 15, [0203], which recites peer monitoring 128 operates process for managing functions of the peer**), in response to receipt of a service request from a third computer entity in said peer to peer network(**Page 24, [0295] – [0298], which recites peer devices or nodes collaborate**

to manage each other in response to a request as disclosed by the instant application).

Regarding claims 21-24, Yeager discloses considering whether said second computer entity allows said first computer entity to utilize said resource of said second computer (Page 4, [0052] – [0054], Page 17, [0219] and page 21, [0255]).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yeager in view of Gleichauf, and further in view of Golle (Incentives for Sharing in Peer-to-Peer Networks, 2001, Computer Science Department, Stanford University).

Regarding claim 4, Yeager discloses managing said second computer entity comprises a process selected from the group consisting of: controlling access by said second computer entity to a communal resource stored on said first computer entity **(Page 17, [0219] and page 21, [0255],**

Yeager doesn't explicitly disclose placing said second computer entity in quarantine; or applying a charge for utilization by said second computer entity of a communal resource.

Gleichauf teaches placing said second computer entity in quarantine **(col. 3, line 63-col. 4, line 11; col. 2, lines 5-10)**. However, Gleichauf doesn't teach applying a charge for utilization by said at least one other computer entity of a communal resource.

Golle teaches applying a charge for utilization by said second computer entity of a communal resource (**page 5, lines 36-38, page 1, lines 25-34**).

Therefore, it would have been obvious to one ordinary Skill in the art at the time the invention was made to use the method of placing an infected computer in quarantine and charging a peer or user for using a resource as taught by Gleichauf and Golle, respectively into the peer-to-peer network of Yeager in order to prevent those hackers, which could cause damage, from penetrating a network undetected, and to increase the system's value to its users and so make it more competitive with other commercial P2P systems.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DADY CHERY whose telephone number is (571)270-1207. The examiner can normally be reached on Monday - Thursday 8 am - 4 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. VU can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dady Chery/
Examiner, Art Unit 2461

/Jason E Mattis/
Primary Examiner, Art Unit 2461